

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Plaintiff,

v.

GIOVANNI G. VISENTIN,

Defendant.

11 Civ. ____

**ORDER TO SHOW CAUSE FOR A
PRELIMINARY INJUNCTION AND
TEMPORARY RESTRAINING ORDER**

11 CIV 00399
JUDGE SEIBEL

Upon the Summons and Complaint of Plaintiff International Business Machines Corporation ("IBM"), the Declaration of Patrick Kerin, executed on January 19, 2011, and the accompanying Memorandum of Law in Support of Plaintiff's Application for a Temporary Restraining Order and Preliminary Injunction, and good and sufficient reason appearing to me therefore, it is hereby

ORDERED that Defendant Giovanni G. Visentin or his counsel show cause at a hearing to be held in this Court before the Honorable Cathy Seibel, United States District Judge, in Courtroom 218, United States Courthouse, 300 Quarropas Street, White Plains, New York, on 1/27, 2011 at 2 p.m., or as soon thereafter as counsel may be heard, why the Court should not enter an order for a preliminary injunction pursuant to Rule 65(a) of the Federal Rules of Civil Procedure and the Court's inherent powers, pending final determination of this action:

(a) enjoining and restraining Defendant Visentin from accepting or commencing employment with the Hewlett-Packard Company, Inc. ("HP"), performing services for HP, or otherwise associating with HP before January 19, 2012;

(b) enjoining Defendant Visentin, before January 19, 2012, from soliciting any customer of IBM with which Defendant Visentin was involved as part of his job responsibilities at IBM during the last year of his employment at IBM;

(c) enjoining Defendant Visentin, before January 19, 2013, from directly or indirectly hiring, soliciting, or making an offer to any employee of IBM to be employed or perform services outside IBM;

(d) enjoining Defendant Visentin from using, disclosing, or transmitting for any purpose records, documents, or information containing any confidential or proprietary information of IBM; and

(e) ordering such further relief the Court deems just and proper;

AND it being shown by the above-referenced declarations and memorandum of law that Plaintiff will suffer immediate and irreparable harm unless, pending the hearing of the motion brought on by this Order to Show Cause, a temporary restraining order be in effect, providing the relief requested by Plaintiff on this motion for a preliminary injunction, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, it is hereby

ORDERED that Defendant Giovanni G. Visentin is temporarily ENJOINED AND RESTRAINED, until the hearing and determination of Plaintiff's motion for a preliminary injunction, from: (i) working at, or providing services for, HP or any competitor of IBM; (ii) soliciting any customer of IBM with which Defendant Visentin was involved as part of his job responsibilities at IBM during the last year of his employment at IBM, (iii) contacting any current employees of IBM for the purpose of soliciting them to leave IBM, *and* (iv) retaining, using, or disclosing IBM confidential or proprietary information; ~~and (v)~~

as described in the Declarations of Giovanni ~~the~~ Visentin and Tom Iannotti dated 1/14/11, except that he may receive information from HP;

~~taking any other action which violates the material terms and conditions of Defendant Visentin's Noncompetition Agreement with IBM; and it is further~~

~~ORDERED that Plaintiff shall effect personal delivery of a copy of this order and supporting papers, by hand delivery service and email to Defendant or Defendant's counsel, no later than 5 p.m. on 1/21, 2011, which shall be deemed good and sufficient service and notice thereof, and it is further~~

~~ORDERED that Defendant shall file with the Court and serve any responsive papers by hand delivery and email on Plaintiff's counsel, Robert A. Atkins, Esq., Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019-6064, ratkins@paulweiss.com, on or before _____.m. on _____, 2011 and that Plaintiff shall file with the Court and serve any reply papers by hand delivery and email on Defendant or Defendant's counsel, on or before _____.m. on _____, 2011.~~

Dated: January 20, 2011.
White Plains, New York

So Ordered:

Cathy Serbil

U. S. D. J.